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Should We Pass Laws to Curb Communism?

A radio discussion over WGN and the Mutual Broadcasting System

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Should We Pass Laws to Curb

Communism?

MR. KEATH: Should we pass laws to curb Communism?

MR. NATHANSON: I think we have more than enough laws against whatever evils may be associated with Communism. To pass more laws would be carrying coals to Newcastle.

MR. McGOVERN: I believe in giving freedom of speech to those willing to give freedom to others, but to deny freedom to those trying by force to impose a totalitarian state.

MR. SCHLESINGER: I would stick to the clear and present danger test. Where Communists create a clear and present danger, as in key government agencies, they should be excluded. Where they don't create such a danger, as in most other areas, our democratic faith is strong enough to permit a few Communists in our midst.

* * *

Communism Vital Issue Now

MR. KEATH: I suspect if we counted proper nouns to find which one appears most frequently in the newspapers and on news broadcasts these days, one word would far outdistance the others—Communism.

The cold war, un-American investigations, loyalty checks, the recent Cultural and Scientific Conference for World Peace in New York—all point up the urgency of the question we discuss today.

Nathanson, you say that we already have enough laws to curb Communism. What is your basis for that statement?

MR. NATHANSON: We seem to be afraid of Communism because it teaches the overthrow of our government. That was the point that McGovern was concerned about. Now, every civilized state, our federal government and all our states have laws which make it illegal to try to overthrow the govern-

ment or to conspire against the government. These are the laws in general terms which can be applied to anyone who is really trying to carry out these evil ideas which are associated now with Communism, sometimes with other movements.

MR. KEATH: Now, you say, McGovern, that we should curb Communism because it is designed to overthrow our government?

Communists Dangerous

MR. McGOVERN: I think that is not the only system that is trying to overthrow the government. But we do have to point up these laws. Some of them get out of date. And I think the present danger comes from Communism.

As a text of what I would like to say, I want to go back to John Stuart Mills, one of the greatest adherents of freedom in the world, who said in his famous book, *On Liberty*, in which he pleads for a complete freedom of expression and action . . . but he does say, the sole end for which mankind is warranted, individually or collectively, in interfering with liberty of expression or action is self protection.

I do feel that in a democratic country we have the right to protect ourselves and our democratic institutions against those advocating the overthrow of government by force—whether they are Nazis or Communists or any other group. I would say the present danger is much greater from the Communists than any other one group.

MR. KEATH: Schlesinger, you base your objections to additional laws on the test of clear and present danger. Do you think, then, that Communists do not endanger America?

MR. SCHLESINGER: The Supreme Court

has laid down the clear and present danger test as the ground on which our traditional liberties may be restricted. Clear and present danger means, for example, free speech which induces illegal, overt acts in violation of the law.

Communists in Government

I believe that Communists in key government agencies do represent a clear and present danger to the national security and should be excluded. Outside of that particular realm, it seems to me we have licked Communism in this country within the framework of freedom; that on the whole Communists are a negligible force and certainly a negligible political force; that the things they can do in an espionage and sabotage way are covered by existing laws. I don't see that we need to do anything more than continue to debate, identify and expose them in a completely democratic way.

MR. NATHANSON: Yes, I think the question that Schlesinger really brings out is that it is a problem of emphasis. Are we doing enough? Are we doing more than enough? Are we doing too little with respect to this problem, particularly in the field of law.

If anything we are doing too much. When we start to worry about whether we should pass laws, we indicate a lack of faith in our own system and a fear that these people who may be advocating overthrow of government are really getting somewhere. I don't think that any of us really believes that.

MR. McGOVERN: I can't go along with that because I was living in Italy and in Germany. In Germany prior to the rise of Hitler people said the same thing about the Nazis that they are saying now about Communists: "Oh, it isn't important. Isn't it funny? Isn't it ridiculous? Why bother about it?"

You can see how, with lack of attention to the serious dangers which threaten any community, a minority group may overthrow the existing form of government by force. I think

the recent expressions are that we are not in any danger of political overthrow because of the latest experience of the Popular Front. The Communists are very small groups, and the Popular Front is a very small group, but there is serious danger of Communist infiltration into government agencies and to a lesser extent into some of our educational institutions.

MR. NATHANSON: I think Eisenhower put his finger on it when he said there isn't any danger of our rotting from within. The Communists are a force working from within. If there isn't any rot in our society that amounts to anything, they don't have any chance of getting anywhere.

Have Coped with Threat

MR. SCHLESINGER: I think if you compare the situation now with the situation two or three years ago, it shows to what extent, by using democratic methods you can cope with the Communist threat. Two years ago Communism was very powerful in the labor movement and the liberal movement.

There were still a lot of befuddled and feather-headed liberals who felt that endorsement of Soviet policy was the infallible guide to all thinking. And a couple of years later, what has happened? The Communist opposition to the Marshall Plan, the Wallace third party, etc., have resulted in isolating the Communists. The Communists are now a negligible political force easily identified within the framework of free discussion.

MR. NATHANSON: The important thing is that this is happening without the laws.

MR. SCHLESINGER: Yes.

MR. NATHANSON: The Communists are losing rapidly whatever strength they gained from the special circumstances of depression, of war, etc., and now, to start to pass more laws against them would be to help them by making martyrs of them. They are losing face;

why should we try to give them more face?

MR. McGOVERN: As you know, I don't believe in suppression of the Communist Party throughout the country, but in case they did become a present danger I would feel differently.

MR. SCHLESINGER: Just as the German-American Bund certainly had to be suppressed. Certain circumstances are conceivable. This is a pragmatic matter.

'Safeguard Institutions'

MR. McGOVERN: I am not at the moment trying to suppress Communism as being Communism. But I do think we might well try to safeguard our institutions by passing laws prohibiting Communists from holding government offices, especially in the armed services and the State Department or in any of the government offices. It is just as well to look into educational institutions as well. I would not like Nazis or avowed Communists teaching social sciences in our colleges.

MR. NATHANSON: I think what you say really suggests this whole problem of emphasis. In Illinois we have had suggestions for more laws, suggestions that we should be looking into things more, that the government ought to be concerned about what is going on in educational institutions and other activities. I think that is the wrong emphasis, that we have too much of that.

MR. SCHLESINGER: There is a lot of confusion on this question of the right of Communists to hold positions in the federal government. As a lawyer, Nathanson, you remember Justice Holmes' dictum on this point in the case of the New Bedford policeman.

Everyone said the policeman was being dismissed because he held unacceptable political opinions. Holmes said that every citizen has a constitutional right to hold political opinions, but every citizen does not have a constitutional right to become a policeman.

I think every American has a right

to become a Communist, but not every American has the constitutional right to work in the code room of the State Department.

MR. NATHANSON: The real problem is how hard should we try to ferret out people whom we think may be Communists?

MR. SCHLESINGER: Again it is a matter of emphasis. In the State Department, the Central Intelligence or the Atomic Energy Commission, the Department of National Defense, you have to give the agency the benefit of the doubt. In the Wild Life Service, the Veterans Administration or the Post Office, you give the individual the benefit of the doubt.

Loyalty Checks

MR. NATHANSON: What are we actually doing? We have a loyalty program of tremendous scope that covers all the agencies of the government. The Post Office Department checks the man who is sorting mail or carrying the bags. We have to investigate him and find out whether he is a Communist, whether he ever was a Communist and whether he is associated with some Communist front organization. That is where we are making a serious mistake which isn't doing anybody any good, and I think is doing the country a lot of harm.

MR. McGOVERN: I am not in favor of suppressing socialism or any other "ism" of that sort based on the democratic process. As far as I am concerned you can be a Socialist and teach in any university or grammar or high school and be in the State Department, too. It doesn't bother me and I don't happen to be a Socialist.

The thing that is of importance to me is whether they are emissaries of a foreign government. I am thoroughly convinced that the Communists are for all practical purposes the emissaries or agents of a foreign government. That is a very crucial thing.

MR. SCHLESINGER: I would agree with McGovern on this. I think very strong-

ly that the basic distinction is not the attitude of many people toward the capitalistic system, not their attitude toward revolution. After all, some of the most incendiary statements can be found in Abraham Lincoln's first inaugural speech on the question of the right to revolution.

The characteristic that distinguishes Communism from a legitimate radical movement is the fact that Communists are obsequious, subservient, and absolutely consistent in their obedience to every twist and turn in Soviet policy. It is that which defines them. It is that which causes us, I believe, to mobilize against them.

MR. NATHANSON: You are really speaking of some of the leaders of the Communist Party who have actually associated with some Russian leaders through the Comintern or Cominform or whatever it may be at the particular moment. But we know that most of the little people who may go in or out of the Communist Party or may become associated with the Communist front organizations for a time are not in contact with Stalin or Molotov. That is why we can't pass laws on this subject.

Communists Follow Line

MR. McGOVERN: Admittedly an insignificant Communist has never met Stalin or Molotov or any of these people; but they do follow the Party line. That is the astonishing thing. Invariably the smallest group here is told what to do—and does it.

The main distinction is that the American Socialists don't follow the party line of those in England. Therefore, I am not the slightest bit bothered. But I feel that the Communists here are following the orders of the Cominform.

MR. SCHLESINGER: I think the nature of the Communist discipline is fairly well established. Although obviously every Communist member is not in personal contact with the Politburo, it is possible to assume that there is a Party discipline which is fairly firm.

If people remain in the Party they submit to that discipline. If they have stopped submitting to that discipline, they are out of the Communist Party. But I would draw a distinction between a person who joins the Communist Party and some sucker who often in many cases for good and generous motives is pulled into a Communist front organization, and particularly people who did it in the middle 30's in the case of the united front delusion. To use that against anybody, I think, is completely silly.

Laws Follow Exposure?

MR. NATHANSON: What we are getting is an exposure of the true character of the Communist leadership which, in turn, determines the general conduct of the Party.

The question is whether that exposure should be followed by laws directed against anyone who happens to be now, or was, or may sometime in the future—because he is an innocent for the time being . . . become associated with that Party. It is exposure that is doing the job.

The Communist Party is losing out here, and it is losing out everywhere in the world that isn't directly under Russian domination. It is losing out because of that exposure. When we pass laws, we weaken our own position in this world-wide conflict of ideas.

MR. McGOVERN: That I can't agree with, Nathanson. Recently I was over in Japan. I was very much interested in talking to one of the principal leaders of the Communist Party there. He was rather disappointed in the political results of Communist activity in Japan. The Communists have never been able to get as many as 10 per cent of the votes. But he was frank to admit, "Now we have to go in for the direct approach . . . the infiltration of the trade unions, political strikes and general strikes; so that we can educate the Japanese proletariat to our position."

I think the Communists have lost face here in politics, and I think that

is the kind of thing we can expect here. They will try to get key positions in the government and burrow under cover. I am not hysterical about it, but I do think we need some laws to point up a present danger.

What Kind of Laws?

MR. NATHANSON: As soon as we start talking about laws, we get to the problem of what kind of laws. What kind of laws you are apt to get, I think, is very well illustrated by what is happening in Illinois and is happening in other states, too.

MR. SCHLESINGER: Nathanson, I am from Massachusetts and have just been a couple of days in Chicago. You keep referring ominously to laws in Illinois. Could you tell me something about it?

MR. NATHANSON: I understand we were to have as one of our guests here Senator Broyles who at the last moment was unable to attend. His name is associated with a group of bills that are pending in Illinois. I suppose they are fairly typical of the kind of thing you are apt to get when we start talking about the desirability of passing laws.

MR. KEATH: What would these bills specifically do, Nathanson?

MR. NATHANSON: It is hard to say what they would specifically do. That is one of their faults. As soon as you try to pass laws in this general area of Communism you get into the problem of definition. And the Broyles bills are notably lax in definition. I have one here which says that "No person who is directly or indirectly affiliated with any Communist organization or any Communist front organization, or any foreign political agency . . ." shall be eligible for elective or appointive office or to serve as a teacher, instructor or professor in any public school, college or university in the state.

Now, who is to say when a person is directly or indirectly affiliated with a Communist organization or what is

a Communist front organization. The bills don't help us.

MR. McGOVERN: Some of the wording of these bills is rather vague. Certainly some of the wording could be improved and clarified. But on the basis of what they are after, the first bill says that any teacher who is caught preaching the overthrow of the government by armed force may be dismissed from a tax-supported teaching institution.

Vague Wording of Laws

I think the basis of that is sound. It is much more important in the elementary schools and the high schools than it is in the colleges and universities. By the time the boys get to the universities they are more apt to have different teachers teaching different things. They can judge for themselves.

MR. NATHANSON: McGovern, do you really think that anyone in the schools of Illinois is advocating armed overthrow of the government? Do you think we ought to be worried?

MR. McGOVERN: Yes, I think there are many persons who are definitely Communist-affiliated and who would therefore feel that we must teach the good old Marxist theory right here in Cook County.

MR. NATHANSON: Don't you have any faith in the general supervision of the school system, the faith that they are aware of the danger of that kind of thing without having a law to point it out to them?

MR. KEATH: I want to point out before we go further that these Illinois laws are fairly typical of others being considered in 13 states.

MR. SCHLESINGER: We have had some problems of this kind in Massachusetts. The attorney general—who was defeated in the 1948 elections—presented bills somewhat similar to the Broyles bills which were defeated in the Massachusetts General Court.

I am perfectly confident that McGovern and Nathanson can together

defeat the arguments of any Communist sympathizers, if there be any such, that any local faculty could lob up. I think Communist arguments are, on the whole, pretty weak. I have never had much trouble in debating or exposing the hypocrisies and inconsistencies of the Communists.

The whole process of debate is a kind of a useful intellectual experience, and there is no reason to protect the college students from the intellectual hazards they are going to face in life. I feel particularly that this business on elective officials is a dangerous thing. When the New York Assembly excluded some Socialists, Charles Evans Hughes vigorously protested the action. He said that to deny political parties the recourse to the ballot which is the inherent process of democratic change is to force them into non-democratic, non-parliamentary powers.

Appointive vs. Elective Office

MR. McGOVERN: As a matter of fact, I would agree with that, Schlesinger. That is the one weakness of the Broyles bills and such bills elsewhere—denying access to elective offices. I would make a distinction here between elective and appointive offices. I am more frightened of infiltration into key services such as the State Department and armed services than I am elective offices.

If they want to be elected, that is a different matter. But I do feel differently about the appointive systems, including the grammar and high school systems, especially of tax-supported institutions. Taxpayers of the United States and Illinois, do have a right to insist that the teachers in these institutions shall not be committed—as the Communists are—to the forcible overthrow of government.

MR. NATHANSON: I want to come back to my point that in Illinois just as an example, it is unlawful not only to try to overthrow the government but even to advocate the overthrow of the government. That applies to teachers and everybody else. We have an ex-

ample of it going on now that is really in the public eye.

The New York trial of the Communists is based on the general statute which provides that it shall be a crime to teach or advocate the overthrow of the government. This is a trial for conspiracy to try to overthrow the government.

'Show Own Strength'

The question there, as in so many cases, is how shall we apply these laws that we already have. How hard shall we try to ferret out these people and prosecute them because we think they are dangerous? I say we should lean over backward against that kind of activity as a sign of our own strength.

MR. SCHLESINGER: Doesn't it all depend on the area? Clearly it would be a sign of our own imbecility if we were to encourage Communists to take high positions in our Atomic Energy Commission.

MR. NATHANSON: Surely I agree to that.

MR. SCHLESINGER: I agree with your general criticism of the present loyalty program. It goes altogether too far. It is interesting that the effect of that program has been to clear 99.5 per cent of the people.

MR. NATHANSON: We tend to minimize the significance of what is going on when we just look at the results. People are being cleared. But all sorts of people are being put through the harrowing experience of being charged with disloyalty which is as close as you can get to treason without actually having called it treason. They must face formal charges, must hire attorneys and wonder whether their whole lives are going to be blasted because of this experience. It is unhealthy and unnecessary. It is doing much more harm than good.

MR. McGOVERN: On that point I must seriously disagree. I sympathize, Nathanson, with your point of view, but I think the potential danger is sufficiently great. There are many

loopholes in our laws. Our laws need clarification. I am not at all certain the Broyles bills give the necessary clarification for Illinois, but we want to make it clear. We must point up our laws at this time.

The boards who have to determine whether a person should be dismissed can be aided by a clarification of the Communist position. And I would therefore like to see laws passed to clarify the fact that those who are avowed members of the Communist Party are foreign agents and therefore can be dismissed.

MR. NATHANSON: I would certainly disagree with that because I think what we have to remember is that we can't by law go around pointing to individuals and groups and say, "you are illegal." That is the kind of thing that resulted in a most disgraceful incident. The law directed at Lovett and Dodd, said these people are disloyal. The Supreme Court said that is unconstitutional. And I think anything along that line is unconstitutional.

Clear and Present Danger

MR. SCHLESINGER: I wonder if the question isn't really a matter of the judicial interpretation of the existing laws. We can indict Communists under existing laws. We can take certain measures in restriction of civil liberties and throw them up to the Supreme Court. I think the problem of the determination of whether conditions do constitute a clear and present danger of actual acts in violation of law should probably have judicial determination. The trouble is that some of these laws attempt to substitute a legislative finding for a judicial finding.

MR. McGOVERN: In this connection I would like to bring out another point. We have our Espionage Act. We have assumed that under our Espionage Act anyone guilty of giving information to the enemy can be punished. On the other hand the Espionage Act has worked so badly that we thought it absolutely useless in trying to control

security in Washington during this war.

I was told time and time again when I was wearing a uniform as a reserve officer that I was not allowed to discuss certain things with State Department officials or with other civilian agents because the Espionage Act did not cover civilians. I could be court martialed and shot while the State Department agents were not subject to the Espionage Act because of its looseness. In the same way that we sharpen up our other security acts, I think we should sharpen up our Espionage Act.

'Security a Special Field'

MR. SCHLESINGER: I think that security is a special field, and it may well be that for necessary self protection certain loopholes in these acts should be plugged.

But honestly I can't see that a Communist as an assistant professor in the department of philosophy at the University of Washington constitutes a danger.

MR. NATHANSON: I think we should try to get back to first principles. This isn't just a battle between the Communist and the democratic way of life here in the United States. It is present all over the world.

What do we stand for? We stand for freedom as against the police state. Every time we pass new laws or try to enforce laws more stringently than we must, we weaken ourselves. We weaken ourselves before the world and it is before the world that we want to win this fight. We need not worry about Communists taking over our government at this time.

MR. McGOVERN: I want as much freedom as possible—but freedom only for those who will grant freedom to others.

MR. KEATH: All of you, I think, point up the need for the public to study Communism more fully and to study the exact nature of laws which are designed to curb Communist activity in the United States.

Suggested Readings



Compiled by Laura R. Joost, Assistant,
Reference Department, Deering
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ANDREWS, BERT *Washington Witch Hunt*. New York, Random House, 1948.

A study of American civil liberty dealing mainly with the ten men dismissed from the State Department for security reasons; the ten Hollywood writers being tried for contempt of Congress; the case of Dr. Condon; and William Z. Foster, titular head of the Communist Party in the United States.

Illinois State Legislature. Senate. S-153 For an act to amend Section 6-36, 7-13 and 34-88 of "The School Code," approved May 1, '45 as amended.

Bill introduced in legislature by Mr. Broyles on May 1, 1945.

Illinois State Legislature. Senate. S-154 For an act to declare ineligible for public office or for employment as a teacher, instructor, or professor in any school, college, or university in this state persons advocating unlawful overthrow of the government and to provide for the removal of such persons after election or appointment or after employment of such teacher, instructor, or professor.

Bill introduced in legislature by Mr. Broyles.

U.S. Congress. 81st Congress, 1st Session. House of Representatives. HR-3290. (some copies available through Congressmen).

A bill to outlaw the Communist Party, introduced into the House of Representatives by Mr. Bryson on March 7, 1949.

U.S. Congress. 81st Congress, 1st Session. House of Representatives. HR-3342. (some copies available through Congressmen).

A bill to protect the United States against certain un-American and subversive activities; introduced into the House of Representatives by Mr. Nixon on March 8, 1949.

U.S. Congress. 81st Congress, 1st Session. Senate. S-1194. (some copies available through Congressmen).

Companion bill to HR-3342, introduced into the Senate on March 8, 1949 by Mr. Mundt and Mr. Johnston.

U.S. House. Committee on Un-American Activities. 80th Congress, 2nd Session. "Report of the Subcommittee on Un-American Activities on Proposed Legislation to Control Subversive Communist Activities in the United States." April 10, 1948. Public Law 601. Washington, D.C., U.S. Supt. of Docs., 1948.

U.S. House. Committee on Un-American Activities. 80th Congress, 1st Session. "Investigation of Un-American Propaganda Activities in the United States." Hearings, March 24-28, 1947 on HR-1884 and HR-2122; bills to curb or outlaw the Communist Party of the United States. Washington, D.C., U.S. Supt. of Docs., 1947.

Forum 107:497-501, June, '47. "Should We Outlaw the Communist Party?" MR. KNEPPER.

Thorough discussion of the current proposals to outlaw the Communist Party. Considers both the principle and expediency of such action.

Nation 164:385-8, Apr. 5, '47. "Washington Witch-hunt." HARRY S. COMMAGER.

A famous historian comments on President Truman's executive order to

protect government employees wrongfully accused of disloyalty. Demonstrates its ineffectiveness by imaginative application to historic figures—Jefferson, Jackson, etc.

New Republic 120:5, Feb. 7, '49. "Communist Trial."

A comparison of the Red Scare of thirty years ago with that of today. Questions the advisability of Communist suppression.

New Republic 119:5-6, Dec. 13, '48. "Un-American Activities."

A terse plea for the abolition of the Un-American Activities Committee. Attempts to show the un-Americanism of its actions which violate freedom of thought.

Newsweek 29:108, Apr. 14, '47. "Outlaw American Communism." R. MOLEY.

Somber note on the danger of domestic Communism destroying our nation from within. A plea for the complete removal of Communist activity in the United States.

School and Society 67:234, March 27, '48. "Strategy of Democracy." I. L. KANDEL.

Contrasts the English attitude toward Communism with ours, emphasizing education's responsibility in guarding against unjust censorship.

Senior Scholastic 50:7, Feb. 24, '47. "Legislating Loyalty." H. S. COMMAGER.

By tracing back into American history to the Alien and Sedition Acts and to the Red Scare in the 1920's, attempts to show that suppression of dissent is futile and wrong.

Time 49:25, Apr. 7, '47. "Outlaw or Curb?"

Descriptive summary of a week's activities during one of the hearings of the Un-American Activities Committee.

Town Meeting 12:1-23, Apr. 10, '47. "Should the Communist Party Be Outlawed in the United States?" A radio discussion. J. R. McCARTHY, E. A. HAYES, ELLIS ARNALL, LEO CHERNE.

A senator, an attorney, a former governor, and the executive secretary of the Research Institute of America debate the issue.

Vital Speeches of the Day 14:482-9, June 1, '48. "Should the Communist Party in the United States be Out-lawed? Debate over the radio, May 17, 1948." H. E. STASSEN: T. E. DEWEY.

Two leading Republicans differ on the problem of anti-Communist laws. Stassen's affirmative calls for firm legislative action, Dewey's negative declares such laws against The Bill of Rights.

Yale Law Journal 58:1, Jan. '48. "Loyalty Among Government Employees." T. I. EMERSON and DAVID HELFIELD. Comment 58:401, Feb. '48. J. EDGAR HOOVER.

Have you read these Reviewing Stand transcripts?

Just What Is Communism?

Vol. 10, No. 24

Un-American Investigations — Red Herring or Needed Service?

Vol. 12, No. 1

Available for 10 cents each in coin



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*List of all available Reviewing Stand
discussions on request*

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